REMARKS

In the Office Action, the Office indicated that claims 1 through 27 are pending in the application and the Office rejected all of the claims.

Rejections under 35 U.S.C. §103

On page 2 of the Office Action, the Office rejected claims 1-9, 17, 19, and 24-27 under 35 U.S.C. §103(a) as being unpatentable over PCT Publication No. WO 01/78319 to Ferguson et al. and U.S. Patent No. 5,664,175 to Jackson et al. On page 8 of the Office Action, the Office rejected claims 10-16, 18, and 20-23 under 35 U.S.C. §103(a) as being unpatentable over Ferguson and Jackson in view of European Patent No. EP 0794646 to Hild.

A *Prima Facie* Case of Obviousness Has Not Been Established

KSR (*KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007) requires that the Office provide "some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness." Further, the Office must "identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does," In addition, the Office must make "explicit" this rationale of "the apparent reason to combine the known elements in the fashion claimed," including a detailed explanation of "the effects of demands known to the design community or present in the marketplace" and "the background knowledge possessed by a person having ordinary skill in the art."

As is acknowledged by the Office, Ferguson fails to teach a method of automatically

replicating data objects, in which the timing of data replication is determined by a network

operator applying parameters that make efficient use of network bandwidth. Specifically,

Ferguson fails to disclose applying, <u>via the network operator</u>, a <u>single weight</u> associated with

each object to be replicated that defines how urgently that object needs to be replicated.

In Ferguson, the only parameters "received from the base station" are the "network

parameters" described at Ferguson, page 49, lines 14 to 17. These network parameters are

merely characteristics of the network and cannot be construed as a single weight associated

with each object that defines how urgently that object needs to be replicated.

The differences between the claimed invention and Ferguson do not stop there.

Ferguson discloses that pending messages use "a wide range of criteria to decide whether they

can be sent". This explicitly teaches away from the claimed single weight associated with

each object that defines how urgently that object needs to be replicated.

Furthermore, Ferguson fails to teach or reasonably suggest applying, via the network

operator, a threshold that is a function of time, with the single weight of each object being

locally compared to the threshold at a given time and the outcome of the comparison

determining whether the object is sent for replication or not at that time, for reasons

previously submitted.

Finally, Ferguson fails to teach or reasonably suggest a method wherein all criteria

that are relevant to how urgently an object needs to be replicated are represented by the single

weight associated with that object. As discussed above, Ferguson teaches that a wide range

of criteria are used to decide whether to send a pending message. There is no disclosure in

Ferguson of a single weight associated with each object that represents each of these criteria.

Thus, the claims are novel over and non-obvious in view of Ferguson.

The Office contends that the feature of "applying, via said network operator, a weight associated with each object that defines how urgently the object needs to be replicated and a threshold that is a function of time" is taught by Jackson. The Office further contends that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ferguson using the teaching of Jackson to arrive at the claimed invention.

Jackson relates to a method and system for allowing a calendar on a computer system to reprioritize items based on combined parameters. Specifically, as described at column 1, lines 39 to 47 of Jackson, the method reprioritizes calendar entries on the computer system based on a selected date, for example, the present date. Each calendar item has a due date and priority value. For each item, a difference between the respective due dates and the selected date is determined. The difference is combined with the respective priority value to determine an importance of the calendar entry. The entries are then sorted according to their importance.

Thus, Jackson is concerned with the sorting of events in a calendar for display to a user. The person of ordinary skill in the art working on developing a method of automatically replicating data objects between a mobile device and a server would not have looked to the field of electronic calendar systems, and thus not to Jackson, in seeking to find an improved method of automatically replicating data objects between a mobile device and a server.

However, even if the person of ordinary skill in the art were to look to Jackson, contrary to the Examiner's assertion Jackson does not teach applying, via a network operator, a single weight associated with each object, let alone a single weight that defines how urgently that object needs to be replicated. Neither does Jackson teach applying, via the network operator, a threshold that is a function of time.

The Office refers to column 3, lines 22 to 60 of Jackson, which recites a number of reprioritization settings provided by a system administrator. None of those five settings could reasonably be interpreted as a single weight associated with each object defining an urgency, let alone an urgency of replication. The first setting is the "numeric range for the priority values that can be assigned to an item by a user". This setting simply defines the range of priority values that can later be applied to a calendar event object by a user. The second setting is "the provision of tie-breaker rules...used when two or more items have the same importance value or priority value". The third setting is the "format of the display of the sorted items", which may be, for example, full screen or located in a window. The fourth setting is the "selected date". This date is used in the event sorting algorithms and defaults to the current calendar date. The fifth and final setting is the "display range". This is a range of days that determines which items are displayed.

All of the above described settings are general preferences used in the events sorting algorithm of Jackson. There is no association between any of these settings and a particular object. None of those settings could be described as a single weight <u>associated with each object</u>, let alone a single weight that defines how urgently that object will need to be replicated.

In summary, the settings provided by the system administrator in Jackson teach nothing more than the concept of "network parameters" in Ferguson. Both the settings of Jackson and the network parameters of Ferguson are sent to the local device as static, system-wide parameters – the former are user preferences and the latter are characteristics of the network. As discussed in detail above, none of those settings or parameters can be described as a weight associated with each object.

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At column 4, lines 27 to 33, Jackson discloses deriving an "importance value" for

each event object if the event object's due date is within the display range of the selected date.

The importance value is derived by taking the difference between the selected dates and the

due dates of the event object and multiplying that difference by the priority value of the

object. As described at column 2, lines 60 to column 3, line 2, the due date and the priority

value of each event object are entered by the user from a local terminal. Thus, the importance

value, which is calculated on the workstation (13), is derived from parameters entered into the

local terminal by the user for each object. Therefore, neither can the "importance value" be

interpreted as a single weight associated with each object that is applied via a network

operator. Furthermore, the importance value does not define how urgently an object needs to

be replicated.

Thus, even in combination with Jackson (which, as noted above, one of ordinary skill

in the art would not be inclined to do), Ferguson fails to teach applying, via a network

operator a single weight associated with each object that defines how urgently that object

needs to be replicated.

Additionally, neither Jackson nor Ferguson teach applying, via a network operator, a

threshold that is a function of time, with the single weight of each object being locally

compared to the threshold of the given time and the outcome of the comparison determining

whether the object is sent for replication or not at that time. Nor does either document teach a

method of automatically replicating data objects wherein all criteria that are relevant to how

urgently an object needs to be replicated are represented by a single weight associated with

that object, either alone or in combination.

Therefore, claim 1 and, by virtue of their dependency, claims 2 to 27 are all novel and

non-obvious in view of the cited prior art.

Accordingly, the Office is respectfully requested to reconsider and withdraw the rejection

of claims 1-27 under 35 USC §103.

<u>Conclusion</u>

The present invention is not taught or suggested by the prior art. Accordingly, the Office

is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice

of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to applicant's Deposit Account No. 50-4364.

Respectfully submitted

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